chargee took priority of the rights of the lessee and that the caveat should be removed. Section 36 of the Registration of Titles Enactment in force then also required the consent in writing of the chargee in respect of any lease for a term exceeding three years.

Furthermore in this case the applicant entered into the agreement with the proprietor well after the land was charged to the first respondent. It was negligent on his part not to have made reasonable inquiry before entering into the agreement. His equitable interest should not therefore be allowed to supersede that of the first respondent

The final question for determination was the question raised by the first respondent that the prayers contained in the Notice of Motion are bad in law. Section 326(2) of the National Land Code provides that the court may on the application by any person or body on whom such a notice has been served "from time to time extend the said period for one month." It is clear that a private caveat once lodged on the Register can only be extended for a definite period of time under that section. That section does not appear to allow an indefinite period of extension and to rely solely on the operation of section 328 of the National Land Code. Gill F.J., (as he then was) in *Inter-Continental Mining Co. Sdn. Bhd.* v. *Societe Des Etains De Bayas Tudjuh, supra*, at page 148 adopted the principle laid down in *Butler* v. *Fairclough*[1] where Griffith C.J. observed:

"It must be taken to be well settled that under the Australian system of registration of title to land the court will recognise equitable estates and rights except so far as they are precluded from doing so by the statutes. This recognition is, indeed, the foundation of this scheme of caveat which *enables such right to be temporarily protected in anticipation of legal proceedings*" (the italics is mine).

On the purpose of caveat *Das* in Torrens System in Malaya at page 325 writes:

"It enables the caveator to retain the matter in *statu quo* until his claim is adjudicated upon by the court and serves as a notice to the world at large of an outstanding equitable claim. The lodging of a caveat is really in the nature of the initiation of litigation, and only those persons should be entitled to initiate litigation who are entitled to litigate the matter of the dispute which is set up by the caveat. *Municipal District of Concord* v. *Coles*."

Nothing is mentioned in the affidavits of the applicant that any proceeding is pending in respect of the agreement between him and the proprietor of the land. There is no mention in the affidavits of the applicant nor in the notice of motion that the applicant intends filing a suit for specific performance. Therefore the application as can be understood from the notice of motion is contrary to the provisions of the National Land Code and devoid of any justifiable ground for extension of the caveat.

Based on all the foregoing the application is dismissed with costs and I further order that the caveat bearing Registration No. Jld. 38 Fol. 8 entered on land held under C.T. No. 432 for Lot No. 1047 Bandar Seremban be removed from the Register.

Application dismissed.

Solicitors: *A. K. J. D'Cruz & Co.; Gunaretnam & Co.*

RE KONG MUN CHEONG & ANOR.; OFFICIAL ASSIGNEE, MALAYSIA v. MALAYA INDUSTRIAL AND MINING CORP. BHD.

[O.C.J. (Abdul Hamid J.) October 1, 1974]
[Kuala Lumpur — In Bankruptcy (Selangor) No. 131/1971]

Bankruptcy — Offer of composition with creditors — Not followed by registration of deed of arrangement — Act of bankruptcy — Attachment of debt due after notice of act of bankruptcy — Void against Official Assignee — Bankruptcy Act, 1967, ss. 3(1)(h); 47(1) and 50.

In this case the bankrupts had called a meeting of all their creditors on 29 December 1970 and made an offer of composition to them, but this had not been followed by the registration of a deed of arrangement. Subsequently a creditor's petition was presented and a receiving order was made and the persons concerned made bankrupt on 30 August 1971. The respondents had attached a debt due to the bankrupts before the date of the receiving order but they had earlier attended the meeting of creditors called by the bankrupts.

Held: (1) as the offer of composition made by the debtors to their creditors was contained in a deed of arrangement which had not been registered within fourteen days after it was made, the debtors had by reason of section 3(1)(h) of the Bankruptcy Act, committed an act of bankruptcy;

(2) the attaching creditors in this case had failed to satisfy the court that they had completed the attachment before notice of the commission of an act of bankruptcy and therefore they were not entitled to retain the benefits of the attachment against the Official Assignee.

Case referred to:-

(1) *Re Chinery* (1884) 12 Q.B.D. 343 at p. 346.

BANKRUPTCY.

Vincent Dass (Senior Assistant Official Assignee, Selangor) for the applicant.

V. T. Nathan for the respondents.

Abdul Hamid J.: The Official Assignee is asking for a declaration that the sum of $67,319.95 received by Messrs. Shearn, Delamore & Company for and on behalf of the respondents pursuant to bankruptcy proceedings vide Kuala Lumpur High Court Civil Suit No. 926/70 was void against the applicant as trustee in the property of Kong Mun Cheong and Lim Kian Huat trading as Eng Huat Construction Company (hereinafter called "the bankrupts") under the provisions of the Bankruptcy Act, 1967 as the money was received after the respondents had notice of the commission by the debtors of an act of bankruptcy.

A creditor's petition was presented on March 19, 1971 against the bankrupts on the ground that the bankrupts within 6 months before the date of presentation of the petition committed an act of bankruptcy, namely, they did, at a meeting of all creditors called by them at Nos. 403 and 404, 4th floor, Loke Yew Building, No. 4, Jalan Bandar, Kuala Lumpur, on December 29, 1970, make to all their creditors, not being partners, an offer of composition with their creditors and such offer was not followed by the registration within 14 days thereafter of a deed of arrangement with their creditors in accordance with the rules for the time being in force for the registration of deeds of arrangement under the Act.

A receiving order was made at the High Court, Kuala Lumpur, on August 30, 1971 against Eng Huat Construction Company. Both partners Kong Mun Cheong and Lim Kian Huat were on the same day adjudged bankrupts.

In the joint statement of affairs filed by the bankrupts it is disclosed that a sum of $68,695.83 due to them from P.I.K. Kuala Lumpur was paid into court under garnishment notice issued by the respondents. After deducting court fees of $1,373.88 a sum of $67,319.95 was paid by the Senior Assistant Registrar to Messrs. Shearn, Delamore & Company for and on behalf of the respondents on December 18, 1971.

It is the applicant's contention that by reason of section 3(1)(h) the bankrupts committed an act of bankruptcy on December 29, 1970. The relevant portion of section 3 of the Act reads —

"3.(1) A debtor commits an act of bankruptcy in each of the following cases:

....

(h) if he makes to any two or more of his creditors, not being partners, an offer of composition with his creditors or a proposal for a scheme of arrangement of his affairs, and such offer or proposal is not followed by the registration within fourteen days thereafter of a deed of arrangement with his creditors, in accordance with the rules for the time being in force for the registration of deeds of arrangement under this Act;"

It is submitted by the applicant that on December 18, 1971, that is, on the date the money was received by the respondents, they had notice of the commission of an available act of bankruptcy by the bankrupts, *i.e.* the act of bankruptcy on which the petition was founded. It is the applicant's further submission that the attachment by the respondents was not completed before the available act of bankruptcy and the respondents were therefore disentitled by virtue of section 50(1) of the Act to retain the sum received as against the Official Assignee.

On consideration I am of the view that the question in issue here is whether the debtors made an offer of composition falling under the first limb of section 3(1)(h), and, if they did, whether that offer was followed by the registration within 14 days thereafter of the deed of arrangement with their creditors.

The respondents argued that their attendance at the meeting did not prejudice their legal rights that had already accrued by virtue of the judgment that had been entered prior to the commission of an act of bankruptcy by the debtors. The respondents also argued that the letter calling for the meeting having been marked "Without prejudice", their attendance at the meeting did not prejudice the recovery of judgment debt through garnishee proceedings already instituted. The respondents further argued that they did not consider what was said or done at the meeting binding upon them. I fail to see any merit in these arguments. To my mind, what the court has to construe is the effect of section 3(1)(h).

It might be convenient at this point to observe that the provisions of the English Bankruptcy Acts 1914 and 1926 which substantially form the laws of bankruptcy as in force in England do not provide much assistance in the construction of section 3(1)(h) as there is no corresponding provision under section 1 of the Bankruptcy Act 1914.

However, in England, independently of the bankruptcy law, an insolvent debtor may enter into a valid arrangement with the general body of creditors without paying his debt in full.

"These arrangements usually take the form either of a composition with the creditors, or an assignment of the arranging debtor's property to a trustee for their benefit, and all constitute contracts between the parties thereto.

The objects of such arrangements, and, in effect, the grounds on which the law gives validity to them and will enforce them, are, first, equality among creditors, and, secondly the temporary or permanent protection of the debtor's estate from being swept away by legal proceedings or executions by some individual creditor or creditors." (*Halsbury's* Laws of England volume 3 4th ed. 999).

The law governing such arrangements is to be found in the Deeds of Arrangement Act 1914. Section 1 of the Act is as follows —

"1.(1) A deed of arrangement to which this Act applies shall include any instrument of the class hereinafter mentioned whether under seal or not —

(a) made by, for or in respect of the affairs of a debtor for the benefit of his creditors generally;

(b) made by, for or in respect of the affairs of a debtor who was insolvent at the date of the execution of the instrument for the benefit of any three or more of his creditors;

otherwise than in pursuance of the law for the time being in force relating to bankruptcy.

(2) The classes of instrument hereinbefore referred to are —

(a) an assignment of property;

(b) a deed of or agreement for a composition;

and in cases where creditors of the debtor obtain any control over his property or business —

(c) a deed of inspectorship entered into for the purpose of carrying on or winding up a business;

(d) a letter of licence authorising the debtor or any other person to manage, carry on, realise or dispose of a business with a view to the payment of debts; and

(e) any agreement or instrument entered into for the purpose of carrying on or winding up the debtor's business, or authorising the debtor or any other person to manage, carry on, realise or dispose of the debtor's business with a view to the payment of his debts."

It is pertinent to observe that subsections (1)(a) and (2)(a) and (b) are substantially similar to the definition of "deed of arrangement" under section 2 of our Act which reads —

" 'deed of arrangement' includes any of the following instruments, whether under seal or not, made by, for, or in respect of the affairs of a debtor for the benefit of his creditors generally:

(a) an assignment of property;

(b) a deed or agreement for composition;

and in cases where creditors of a debtor obtain any control over the property or business —

(c) a deed of inspectorship entered into for the purpose of winding-up or carrying on a business;

(d) a letter of licence authorising the debtor or any other person to manage, carry on, realize or dispose of a business with a view to the payment of debts; and

(e) any agreement or instrument entered into for the purpose of carrying on or winding up the debtor's business, or authorising the debtor or any other person to manage, carry on, realize or dispose of the debtor's business with a view to the payment of his debts;"

While under the Deed of Arrangement Act 1914, a debtor may enter into a valid composition with the general body of creditors or an assignment of his property for the benefit of the creditors, similarly, a debtor may also enter into a valid composition or assignment of his property under our law of bankruptcy provided a deed of arrangement is registered within 14 days after the first execution thereof by him or any creditor in accordance with the rules set out in Schedule B of the Act. However, there is no provision

either in the Deed of Arrangement Act 1914 or the Bankruptcy Act 1914 which corresponds to section 3(1)(h) of our Bankruptcy Act.

Mr. Nathan, counsel for the respondents submitted that the deed of arrangement referred to in section 3(1)(h) therein must necessarily refer to a concluded arrangement, duly executed and sealed as a deed and capable of registration under the provisions of section 20 and Schedule B. He further submitted that the act of bankruptcy under section 3(1)(h) must therefore be the failure to register the concluded deed and not the mere proposal or offer of composition or scheme of arrangement.

To my mind, this is not a reasonable construction to be placed upon paragraph (h) of section 3(1). If the legislature had intended that, to constitute an act of bankruptcy, the default in the registration must relate to a concluded deed it is improbable that the legislature, in enacting this provision, would have specifically used the words "offer" and "proposal". Moreover instead of the words "an offer of composition with ... or a proposal for a scheme of arrangement ..." the legislature could instead use the words "enters ... into a composition with his creditors ...".

Speaking of the meaning to be assigned to the words used suffice if I refer to *Re Chinery*,[1] the case cited by Mr. Nathan where in the course of his judgment Cotton L.J. said —

"... when the legislature enacts that a particular act or default shall be an act of bankruptcy, I think we ought not to give to their words any but their strictly proper meaning, unless we are clearly satisfied that it was the intention of the legislature to use the words in a larger sense."

In view of the clear and specific expression used in paragraph (h) of section 3(1), it is hardly necessary for me to spell out the ordinary meaning of the words "offer" and "proposal". However, in the light of the requirement concerning registration in the second limb of paragraph (h), it seems necessary for this court to construe the effect of the whole paragraph in order to determine the circumstances under which a debtor is said to have committed an act of bankruptcy.

Looking at the definition of "deed of arrangement" under section 2 of the Bankruptcy Act, it seems clear that a deed of arrangement includes any instrument, whether under seal or not, of certain classes made by, for or in respect of the affairs of a debtor for the benefit of his creditors generally, that is to say, for the benefit of all creditors who may assent to and take the benefit of it. The class of instrument relevant for purposes of this case is a deed or agreement for a composition.

It would be convenient at this juncture to decide whether there was an offer of composition made by the debtors to two or more of their creditors, and, if they did, whether such offer was contained in an instrument which was either a deed or an agreement for a composition.

Before proceeding any further it is to be observed that generally a debtor would only be driven to make an offer of composition when he is either heavily indebted and/or insolvent with a view to obtaining temporary or permanent freedom from the process of law for the recovery by the creditors of the debts due or a release from the claims of the creditors. Our bankruptcy law does not create an act of bankruptcy simply because a debtor makes an offer but where the offer is under an instrument which constitutes a deed of arrangement as defined under the Act, the failure to register such deed in accordance with the law either by the debtor or one of the creditors would constitute a breach of the law. The debtor will in such a case be held to have committed an act of bankruptcy, and, in that event, the validity of the offer for a composition is not recognized by law. Since the law makes it an act of bankruptcy any creditor may file a bankruptcy petition against the debtor to ensure equality amongst creditors as otherwise there will be legal proceedings or executions by individual creditor or creditors against the estate of the debtor.

As for the present case, it is clearly established that the debtors were heavily indebted although they had quite a substantial recoverable book debt. In determining whether the debtors did make any offer of composition with their creditors, it is necessary to examine the facts as disclosed from the affidavits. The substance of the affidavit affirmed by the bankrupts have not been seriously disputed by the respondents. On account of their financial difficulties, the bankrupts arranged through their accountants Messrs. Poon Sze Sam and Company, for creditors' meeting to be convened and such meeting was held on December 29, 1970. Thirty-two creditors including Mr. Lee Swee Huat attended the said meeting. It was at that meeting that an offer of composition of payment of 70% of all liabilities was made which offer was accepted, if not by all, at least by a majority of the creditors present. Attached to their affidavit was a copy of the minutes and in the concluding paragraph details of the offer made to the creditors were recorded. They are as follows —

"Various views were expressed as to the mode of settlement of creditors' claims against the partnership. Most of the creditors agree to the proposal made by Mr. Lim Kian Huat in manner as follows: —

(a) That a composition of 70% be accepted by creditors of the partnership.

(b) That payment of such composition be made within the period of one year, of which 35% composition be paid on or before the 30th day of June, 1971, and the remaining 35% composition be made on or before the 31st day of December, 1971.

(c) That such composition be guaranteed to be paid by Messrs. Lim Kian Huat and Kong Mun Cheong.

(d) That Mr. Poon Sze Sam be appointed the liquidator of the partnership to carry out the work of realisations of all the assets of the partnership and the distribution thereof to the creditors pro rata. Authority will be given to Mr. Poon Sze Sam for such purposes.

(e) That Mr. Poon Sze Sam be authorised to carry out payment of Item (b) above by instalments within such period as and when funds are available.

(f) That a letter be sent to all the creditors of the partnership by Mr. Poon Sze Sam requesting each creditor to accept the terms set out in these minutes."

At the commencement of the meeting one of the bankrupts Mr. Kong Mun Cheong gave a short description of the failure in business of Eng Huat Construction Company. He attributed it to the previous year's bad trading consequential upon an unrest. He stated that the partnership had a book debt (recover-

able) of $591,107.49 against claims amounting to $583,865.77. He further stated that the partnership would not be able to liquidate its book debts within a short space of time to meet demands in view of the trade recession.

On the materials before me I am satisfied that the meeting was convened primarily to consider the mode of settlement of the creditors' claims against Eng Huat Construction Company. I am also satisfied that Eng Huat Construction Company did in fact make an offer of composition with approximately thirty-two creditors present which offer was approved by a majority of the creditors. The respondents as one of the creditor/s were invited to and did attend the meeting.

I am also satisfied that the offer of composition was contained in an instrument which is to be found in the concluding paragraph of the minutes. It was not under seal, nevertheless was contained in an instrument made by, and in respect of the affairs of the debtors for the benefit of their creditors generally, and sufficient for me to hold that this instrument was a deed and/or agreement for a composition.

As the offer of composition made by the debtors to two or more creditors, not being partners, was contained in a deed of arrangement as defined under section 2 of the Act but had not been registered within 14 days thereafter the debtors did, therefore, by reason of section 3(1)(h) of the Act, commit an act of bankruptcy.

The only other question that calls for determination is whether section 50(1) of the Act, the relevant portion of which reads —

"50.(1) Where a creditor has ... attached any debt due ... he shall not be entitled to retain the benefit of the ... attachment against the Official Assignee unless he has completed the ... attachment before the date of the receiving order and before notice —

(a) of the presentation of any bankruptcy petition by or against the debtor; or

(b) of the commission of any available act of bankruptcy by the debtor."

would apply so as to disentitle the respondents to retain the benefit of the attachment against the Official Assignee.

On the materials before me, it is not disputed that the respondents attached the debt due. Thus by reason of section 50, they are not entitled to retain the benefit of the attachment against the Official Assignee unless they can establish that they completed the attachment before the date of the receiving order and, before notice —

(a) of the presentation of any bankruptcy petition against the debtors, or

(b) of the commission of any available act of bankruptcy by the debtors.

In the present case I am satisfied that the respondents completed the attachment before the date of the receiving order and before notice of the presentation of any bankruptcy petition against the debtors but I am not satisfied that the attachment was made before notice of the commission of any available act of bankruptcy.

I am urged to construe that on proof that the attachment is completed before the date of the receiving order, the attaching creditor only has to prove either (a) the attachment is completed before notice of the presentation of the bankruptcy petition, or (b) before notice of the commission of any available act of bankruptcy. It is argued that on proof of the completion of the attachment before the date of the receiving order and before notice of the presentation of the bankruptcy petition against the debtors, the respondents became entitled to retain the benefit of the attachment notwithstanding the fact that they had prior knowledge (which was denied) of the commission of an act of bankruptcy.

With all due respect to learned counsel for the respondents I am unable to see the validity of the argument. I am firmly of the view that the words "before notice" in section 50 must be read conjunctively applicable to both the presentation of bankruptcy petition and the commission of an available act of bankruptcy. Failure on the part of an attaching creditor to satisfy both or any of them will not entitle him to retain the benefit of the attachment against the Official Assignee.

To construe in the manner suggested by the learned counsel for the respondents would mean that the respondents may legally retain the benefit of the attachment even though they had prior notice of the commission of an act of bankruptcy and are at liberty to secure for themselves an undue advantage over the other creditors.

In the present case, the respondents were duly represented at the creditors' meeting convened essentially for the purpose of considering the offer of composition and they had full knowledge of the fact that the offer properly made and recorded was agreed upon by the majority of the creditors. In the circumstances they must be deemed to have had notice of the commission by the debtors of an act of bankruptcy. I do not think it is sufficient in the circumstances, for the respondents to merely say that they had no prior notice and are therefore entitled to retain the benefit of the attachment. All the respondents needed do was to enquire and would have acquired such knowledge. Furthermore the circumstances are such that an act of bankruptcy may reasonably be inferred. Under section 20 of the Bankruptcy Act the registration need not be effected by the debtors but may also be done by any of the creditors.

On the question of notice may I refer to a passage in *Williams* on Bankruptcy 8th ed. page 405 under the heading "What is 'notice' of an available act of bankruptcy" which reads —

"When an act of bankruptcy has in fact been committed, any communication which brings that fact to a person's knowledge so as to induce him, as a reasonable man, to believe it to be true is sufficient notice. Notice, in fact, means knowledge, or wilfully abstaining from acquiring knowledge, and a knowledge of facts from which an act of bankruptcy may reasonably be inferred. ..."

It is therefore my considered judgment that for reasons that I have stated, the respondents shall not be entitled to retain the benefit of the attachment against the Official Assignee. As for the Official Assignee's

title may I refer to section 47(1) of the Bankruptcy Act, the relevant portion of which reads—

"47.(1) The bankruptcy of a debtor, whether the same takes place on the debtor's own petition or upon that of a creditor, shall be deemed to have relation back to and commence at the time of the act of bankruptcy being committed on which a receiving order is made against him, or...."

The Official Assignee's title would thus commence on December 29, 1970 some one month and 20 days before the date of the receipt by the respondents of money attached. I would therefore order that the respondents do pay the sum of $67,319.95 to the applicant as trustee of the property of the bankrupts and costs.

Order accordingly.

Solicitors: *Shearn, Delamore & Co.*

MEOW KIM YENG @ MEOW LENG HAWN v. CHOOW YIK GHEE & ANOR.

[O.C.J. (Abdoolcader J.) April 1, 1975]
[Ipoh — Civil Appeal No. 27 of 1973]

Control of Rent Act, 1966 — Statutory tenancy — Prior to commencement.

Any protection afforded to a statutory tenant under the precursor to the Control of Rent Act, 1966, is not recognised, perpetuated or preserved by the current Act.

Case referred to:-

(1) *United India Fire & General Insurance Co. Ltd.* v. *Jaffnese Co-operative Society Ltd.* [1971] 1 M.L.J. 118.

CIVIL APPEAL.

Chinn Swee Onn for the appellant.

Chandran G. Nair for the respondents.

Abdoolcader J.: The appellant appealed to this court against the decision of the Magistrate's Court at Ipoh ordering the appellant to deliver vacant possession of the right front half portion and a room at the back on the ground floor of premises No. 17, Clarke Street, Ipoh, to the respondents, with mesne profits at the rate of $180 per month and costs of the action to be paid by the appellant.

The facts of this case are briefly that the respondents had let the whole of the ground floor of the premises to Khong Kok Leng trading as Foong Ming Ladies Dressmaking. The appellant claimed to be a sub-tenant of Khong Kok Leng in respect of the portion occupied by him but the respondents dispute this and sued for possession on the basis that at most the appellant was only a licensee of their tenant. The tenant had surrendered her tenancy on November 30, 1971, and the respondents then gave notice to the appellant to quit the premises on the basis that he was then a trespasser and subsequently instituted proceedings for possession. The appellant in his defence claimed to be a lawful sub-tenant of Khong Kok Leng, and pleaded the protection of section 17 of the Control of Rent Act, 1966.

The learned Magistrate seems to have decided this case primarily on the basis of the decision of the Federal Court in *United India Fire & General Insurance Co. Ltd.* v. *Jaffnese Co-operative Society Ltd.*,[1] but it is abundantly clear that the learned Magistrate wholly misdirected himself on the application of this decision and, indeed, counsel for the respondents conceded at the hearing of the appeal before me that this was indeed so. In the present case, the appellant entered into possession of the portion of the ground floor of the premises occupied by him in September, 1968, and of the room at the back on the ground floor in September, 1971, during the subsistence of the contractual tenancy of the tenant in respect of the whole of the ground floor and, apart from the question as to whether the appellant was a sub-tenant or a licensee, this was not disputed by the respondents. In the *United India Fire* case, *supra*, the owners of certain premises had given notice to quit to their tenants and after the expiry of the notice to quit the tenants continued to occupy the premises and subsequently purported to sub-let a portion of the premises to others. It was held that under the Control of Rent Act, 1966 a contractual tenant who is no longer such after the determination of his contractual tenancy holds over only by virtue of the protection afforded by section 16(1) of the Act, and cannot transmit his own privilege of irremovability to a third party, whether by assignment or sub-letting, and Ong C.J., in his judgment (at page 122) made it abundantly clear that the appellants' case would have been unassailable had they been given a subtenancy by a contractual tenant.

The question then arose for consideration as to whether or not there in fact had been a lawful subletting to the appellant of the portion occupied by him. There was abundant evidence to that effect. The tenant (PW1) gave evidence that she had sub-let the premises to the defendant and that there was no term prohibiting sub-letting on her part and repeated this in cross-examination. Counsel for the respondents again conceded before me that there is in fact a body of evidence to show lawful sub-letting to the appellant. The first respondent merely said that he had mentioned to the previous proprietor of Foong Ming Dressmaker, who later retired leaving that concern in the hands of the tenant, "not to sub-let the place to anybody." There was no term or condition prohibiting assignment or sub-letting in the rent receipts issued by the respondents to the tenant, and the respondents would also by a letter written by their solicitors to the tenant on September 24, 1968, and by their conduct generally appear to be estopped from questioning the status of the appellant as a lawful sub-tenant. I therefore found that there was no prohibition against sub-letting and the appellant was accordingly a lawful sub-tenant.

The respondents apparently raised in the Magistrate's Court the contention that when they found the appellant in occupation of the portion of the premises in question they raised this immediately with the tenant but did not pursue the matter on receiving an assurance from the tenant that the appellant would leave when the tenant gives up her tenancy. Again, on the evidence it was clear that although the tenant may have said this to the respondents or either of them, there is no evidence to show that in fact the appellant agreed to this and, indeed, the tenant (PW1) said that when she spoke to this effect to the landlady, presumably referring to the